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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/805,141	03/19/2004	Yoshinari Kato	181A 3551	8628

7590

06/16/2005

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EXAMINER

CINTINS, IVARS C

ART UNIT	PAPER NUMBER
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1724

DATE MAILED: 06/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/805,141

Applicant(s)

KATO ET AL.

Examiner

Ivars C. Cintins

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,5-7,9-11,13-15,17 and 19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,5-7,9-11,13-15,17 and 19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 2, 5-7, 9-11, 13-15, 17 and 19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. The term "elusion volume ... not more than 50 ppb" (claim 1, lines 9-10) is vague, and indefinite as to the limitation intended. Even if "elusion" were changed to "elution" this term would still be indefinite because ppb (i.e. parts per billion) appears to represent a concentration, not a volume. Claims 11 and 17/11 are further indefinite because they depend from a canceled claim (i.e. claim 3).

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 5, 7, 9, 11, 13, 15, 17/1, 17/5, 17/7, 17/9, 17/11, 17/13 and 17/15 are again rejected under 35 U.S.C. 102(b) as being clearly anticipated by Barnard (U.S. Patent No. 4,540,489). The reference discloses a liquid treating apparatus including an antibacterial filtering layer, an adsorptive filtering layer and a filtering layer (see col. 4, lines 44-45); and further discloses an antibacterial layer comprising ceramic material and a material including silver (see col. 4, lines 59-66).

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are

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such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 6, 10, 14, 17/2, 17/6, 17/10 and 17/14 are again rejected under 35 U.S.C.

103(a) as being unpatentable over Barnard in view of Pavia (U.S. Patent No. 4,196,081). As pointed out in the previous Office action, Barnard discloses the claimed invention with the exception of the rough filter in a separate tank. Pavia discloses locating a relatively course filter (see col. 3, lines 32-33) upstream of a relatively fine filter (col. 4, lines 1-5). This reference further teaches that the filters can be located in the same tank (Fig. 3) or in separate tanks (Fig. 1). It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the system of Barnard with an additional course filter located upstream, and in a separate tank, from the disclosed fine filter (see col. 4, line 3), as suggested by Pavia, in order to reduce the load on this fine filter, thereby extending its useful life.

Claim 19 would be allowed if rewritten in independent form to include all of the limitations of parent claim 1, and if further amended to overcome the above rejection under 35 U.S.C. § 112, because the references of record do not teach or fairly suggest a liquid treating apparatus with an antibacterial filtering layer of the type recited in this claim.

Applicant's arguments filed March 11, 2005 have been noted and carefully considered but are not deemed to be persuasive of patentability. Applicant argues that Barnard teaches silver nitrate, not inorganic silver, as an antibacterial component. It is pointed out, however that with the exception of claim 19 none of the other claims requires the use of inorganic silver. Applicant should note that the silver nitrate of Barnard is a salt of silver, and this is all that appears to be required by the recitation "at least one selected from the group consisting of silver and copper" (claim 1, line 8).

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Applicant also argues that Barnard fails to teach the recited "elusion volume." Again, this argument has been noted and carefully considered, but is not deemed to be persuasive of patentability. It is pointed out that since the meaning of this term cannot be determined, as explained above, it cannot be relied upon to patentably distinguish over this reference.

Applicant further argues, with respect to the rejection based on Barnard in view of Pavia, that Pavia involves only mechanical filtering and does not include an antibacterial agent. It is pointed out, however, that this secondary reference is relied upon only for the teaching of locating a relatively course filter in a separate tank upstream of a relatively fine filter, and not for a teaching of an antibacterial agent. Barnard clearly provides the teaching of utilizing an antibacterial agent in a liquid treating apparatus.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to I. Cintins whose telephone number is (571) 272-1155. The

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examiner can normally be reached on Monday through Friday from 8:30 AM to 5:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Duane Smith, can be reached at (571) 272-1166.

The centralized facsimile number for the USPTO is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Ivars C. Cintins
Primary Examiner
Art Unit 1724

I. Cintins
June 10, 2005